IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 23RD MAY 2007 / 2ND JYAISHTA 1929

Crl.Rev.Pet.No. 43 of 1999()

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CRA.155/1995 of SESSIONS COURT, PALAKKAD
CC.348/1992 of JUDL.MAGISTRATE OF FIRST CLASS COURT, CHITTUR

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REVN. PETITIONER:

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RAJAMANI,
S/O. CHAMI, KURUKKOMPOTTA ALUNCHOVADU,
NALLEPPALLY, CHITTUR.

BY ADV. SRI.P.VIJAYA BHANU
SRI.S.R.MANOJ

RESPONDENTS:

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STATE OF KERALA REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI. AMJAD ALI, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 23/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.P. NO. 159/1999 IN CRL. R.P. NO. 43/1999

DISMISSED

23.05.2007 SD/- K.R. UDAYABHANU, JUDGE.

/True Copy/

P.A to Judge.

K.R. UDAYABHANU, J

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CRL. R.P. NO. 43 OF 1999

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Dated this the 23rd day of May 2007

**O R D E R**

The revision petitioner stands convicted for the offence under Section 326 IPC and sentenced to undergo simple imprisonment for six months and to pay a fine of Rs.5,000/- and in default to undergo simple imprisonment for three months.

2. The prosecution case is that on 27.10.1992 at 7.15 p.m. the accused beat PW2 with an iron rod and as a result of which he sustained dislocation of the left shoulder. The evidence adduced in the matter consisted of the testimony of PWs 1 to 9 of whom PW2 is the injured and PW3 is the occurrence witness and Exts. P1 to P7. PW1, the doctor has testified with respect to the injuries sustained. He has also proved Ext.P1, wound certificate and Ext.P3, the case sheet. The evidence of PWs 2 and 3 would show that the incident had taken place as a consequence of an altercation. After the altercation, the accused went to his house situated nearby, returned with the iron rod which he kept hiding behind his back and beat the accused on his left shoulder and ran away. The accused was taken to the government hospital. There is no delay in recording the wound certificate or registering the crime. MO1 is the iron rod with which the offence was committed.

PW2 has identified the same. The evidence of PWs 2 and 3 corroborate. There is no contradictions or infirmities brought out in the prosecution evidence. PW1, the doctor has testified that the dislocation is a grievous injury. Considering the evidence adduced in the matter I find that the prosecution case stands established beyond reasonable doubt. There is no scope for interference.

**3.** The counsel for the revision petitioner has pleaded for leniency pointing out that the incident has taken place in the year 1992 and that so long the accused was facing the proceedings and living under the shadow of the imprisonment. In the circumstances and in view of the long delay I find that the sentence is liable to be modified. The sentence is modified to imprisonment till the rising of the court and to pay a fine of Rs. 25,000/- and in default to undergo simple imprisonment for six months. The fine amount if realised will be paid to PW2. The revision petitioner is granted two months time from today onwards to remit the fine amount. The revision petitioner shall appear before Judicial First Class Magistrate, Chittur on **25.07.2007** to receive sentence.

The Crl.R.P is disposed of accordingly.

**K.R. UDAYABHANU, JUDGE.**

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